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East Brunswick, New Jersey 08816

CLH
CHEMICAL LAND HOLDINGS, INC.

September 27, 2001

U.S. Environmental Protection Agency, Region II
Emergency and Remedial Response Division
290 Broadway, 19th Floor, Room W-20
New York, NY 10007-1866

Attention: Ms. Janet Conetta
Strategic Integration Manager

Subject: Passaic River Study Area Creel/Angler Survey: Data Report
Chemical Land Holdings, Inc.
Administrative Order on Consent Index No. II-CERCLA-0117

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Dear Ms. Conetta:

This letter transmits the Passaic River Study Area Creel/Angler Survey (CAS) Data Report ("Data Report") to the U.S. Environmental Protection Agency (EPA) in accordance with the deadline imposed by your letter dated January 30, 2001 (Subject: Schedule for Further Activities). The Data Report provides detailed information on the administration of the CAS undertaken by CLH that was started on August 1, 2000 and completed on July 31, 2001. In addition, results of the CAS, including summary statistics and raw data, are provided.

In the above-referenced letter you advised that "*EPA and the New Jersey Department of Environmental Protection (NJDEP) have reviewed the revised [Creel/Angler Survey] work plan and CLH will receive our comments within the next few weeks. CLH will be able to incorporate revisions into its data gathering for the remainder of the survey. Consequently, if these changes are incorporated, EPA will consider a creel/angler report submitted by October 2001 as part of any risk assessment drafted for the Passaic River*".

The comments referenced in your January 30, 2001 letter were received by CLH on April 24, 2001 under cover of Ms. Jaffess' letter dated April 20, 2001. This letter also indicated that the Agency did not approve the latest version of the CAS Work Plan due to the Agency's "concerns" over the "...process of interviewing and the use of modeling..." (n.b., "modeling" is not part of the CAS). Fifty comments (12 pages) were provided to CLH, ten of which were redundant. Of the remaining 40 comments, approximately half were related to the CAS, and the remainder to the conduct of the human health risk assessment for the Passaic River Study Area. Of the approximately 20 unique (i.e., not redundant) comments related to the CAS, a number had already been submitted to CLH by EPA and responded to, in detail, by CLH.

On May 3, 2001 CLH submitted a letter to EPA in response to EPA's disallowance of the CAS, requesting a meeting with the Agency. EPA responded on May 3rd agreeing to meet with CLH, but only "...as a courtesy..."

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On May 15, 2001 CLH provided detailed responses (totaling more than 50 pages) to each of EPA's comments received on April 24, regardless of whether the comment was related to the CAS or the pending risk assessment. CLH clearly defined the associated category in its responses, and described, in each response, how the CAS was already responsive to EPA's comment, or how EPA's comment may have been based on a misinterpretation of the CAS Work Plan.

In its cover letter CLH reviewed the long history of this task as a means to demonstrate that regardless of the many exchanges of comments and response-to-comments documents, there appeared to be a lack of communication between EPA/NJDEP and CLH. CLH reiterated the need for a meeting:

"CLH looks forward to meeting with you [Ms. Jaffess] and the EPA technical and management team on June 7 or such other date that is mutually convenient to review each of these responses to (1) determine that they were responsive to the Agency's comment, (2) provide further explanation or information if necessary, and (3) come to agreement on the sufficiency of the response, inclusive of additional discussion provided at the meeting."

EPA responded on June 19th with a description of the difficulties in scheduling a meeting among all interested parties, and then recommending that the meeting be cancelled since the available meeting dates were so close to the conclusion of the CAS. CLH responded on July 13, 2001 that it "accepted" the Agency's recommendation to cancel the meeting, but went on to explain that:

CLH "...requested a technical meeting so that CLH and EPA could methodically review each of the Agency's comments. CLH's objective was to have EPA's and NJDEP's experts explain and/or clarify their comments, including providing specific responses as to why EPA feels CLH's responses were inadequate. CLH's experts would then have the opportunity to explain and clarify, so that we might eventually reach some agreement as to the sufficiency of the Creel Angler Survey. Certainly, if CLH's experts could not provide sufficient justification on any point(s), then mitigating steps might be required. At least in this forum, EPA and CLH could agree on the appropriate steps, if needed, to improve the Survey, whether through additional data collection, modified data analysis, sensitivity studies, or inclusion of a qualitative evaluation of the impact of a flawed question or approach."

Although the CAS has been completed, CLH and its team continue to be willing to meet with the Agency and NJDEP to review prior comments, as well as the CAS Data Report submitted herein. We believe this to be a very extensive and reliable creel angler survey and the data will be essential to inform the preparation of the risk assessment for the Passaic River Study Area.

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Please include this letter and the enclosed Passaic River Study Area Creel/Angler Survey: Data Report in the official administrative record for this Administrative Order on Consent.

Sincerely,

A handwritten signature in black ink, appearing to read "Clifford Firstenberg", followed by the word "For" in a similar script.

Clifford Firstenberg
Project Manager
On behalf of Occidental Chemical Corporation
(as successor to Diamond Shamrock Chemicals Company)

Enclosure

(2 copies sent)

Ms. Janet Conetta

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2c: Section Chief

NJDEP-Bureau of Federal Case Management

401 East State Street - CN 028

Trenton, NJ 08625-0028

Attn: Jonathan D. Berg

1c: Chief, New Jersey Superfund Branch

Office of Regional Counsel

U.S. Environmental Protection Agency

290 Broadway, 19th Floor, Room W-20

New York, NY 10007-1866

Attention: Diamond Alkali Site Attorney - Passaic River Study Area